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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-----------------------|
| 10/708,914 | 03/31/2004 | Brent Edward Weesner | 143248-1 | 2913 |
| 23413 | 7590 | 10/27/2005 | EXAMINER | |
| CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002 | | | | PONOMARENKO, NICHOLAS |
| ART UNIT | | PAPER NUMBER | | |
| | | 2834 | | |

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/708,914 | WEESNER ET AL. | |
| | Examiner Nicholas Ponomarenko | Art Unit 2834 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 March 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) 3-12, 14-19 and 23-31 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1,2,13,20-22 and 25 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) 3-12, 14-19 and 23-31 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/31/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

I. Claims 1, 2, 13, 20-22 and 25, drawn to a portable power generating system with a wind driven generator.

II. Claims 3-12, 16-19, 23-25 and 28-30, drawn to a portable power generating system with a solar battery.

III. Claims 14, 15, 26, 27 and 31, drawn to a portable power generating system with a generator driven by a fuel engine.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 21 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Keith Murphy (Reg.33979) on October 20, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 2, 13, 20-22 and 26. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-12, 14, 15-19, 23-25, 27 and 28-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1,2,13,20-22, and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Glidden et al. (US 5,969,501) and further in view of Damron et al. (US 5,920,127).

Glidden et al. discloses the movable platform with power generating system and stabilizing jacks positioned at each corner of the platform for support, but fails to teach a wind generator as a power generating system attached to the platform, which charges a battery. Damron et al. teaches a wind generator positioned on a platform of a vehicle, which charges a battery located inside of the enclosure.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a movable platform with a stabilizing jacks to support the platform as taught by Glidden et al. and to add a wind driven generator for charging a battery as taught by Damron et al. in order to have a portable wind generating system, especially since applicant(s) failed to show that their windmill is different from a common windmill and it appears that the claimed system arrangement is within capabilities of an ordinary designer in the arts.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant(s) disclosure.
7. When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support. **No new matter may be introduced.**
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ponomarenko whose telephone number is (571) 272- 2033, Fax: (571) 273-2033, or to his SPE Darren Schuberg – (571) 272-2044.
9. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2800 Customer Service Phone: (571) 272-2815

np
October 24, 2005



**Nicholas Ponomarenko
Primary Examiner
Technology Center 2800**